

REGULAR INTEREST ON MEMBER ACCOUNTS FOR 2006

The PERSI Retirement Board is authorized by law to periodically set the regular interest rate. Regular interest is the rate of interest credited to member accounts.

Effective January 1, 2006, members began receiving 10.24 percent interest on their Base Plan accounts. The regular interest rate credited to member accounts for each calendar year is equal to PERSI's net investment return rate. The rate for each calendar year is based on the net rate

of return at the end of the previous fiscal year (June 30). If the investment return for any fiscal year is less than the average of the quarter ending 13-week U.S. Treasury Bill rates for the previous fiscal year, regular interest will be at least equal to the Treasury Bill average.

The only time credited interest will affect a member's benefit is if a refund of contributions is made either at termination or upon death.

PROPOSED IRS REGULATIONS AFFECT DEFERRALS

By Brad Goodsell, Deputy Attorney General

There has always been some question whether or to what extent amounts paid by an employer after an employee terminates can be deferred into a 401(k), a 457, or a 403(b) plan. Because it has been unclear, various practices have been applied to deferral of post-severance pay. For instance, some plans have permitted deferral of any amounts that would otherwise be included in the employee's final paycheck. Other plans, like PERSI, have permitted deferral of any amounts payable within 30 days after employment ends.

These practices effectively permitted, in some instances, deferral of taxes on income the IRS now considers not to be compensation for deferral purposes, such as severance pay, nonqualified deferred compensation, and certain "parachute payments." To eliminate perceived abuses in this area, the IRS recently proposed regulations that specifically address what post-severance compensation can be deferred, and what cannot.

Simply put, the proposed regulations state post-severance amounts paid within 2½ months after employment separation can be deferred only if:

- The amounts would have been paid if the employee had continued to work and is regular

compensation for services (i.e., regular wages, overtime, or shift differential), commissions, bonuses, or other similar compensation; or

- The amounts are payment for accrued bona fide sick, vacation, or other leave that could have been used if employment continued.

The regulations expressly state severance payments, nonqualified deferred compensation, and certain parachute payments paid following employment separation cannot be deferred even if paid within the 2½ month window. Furthermore, no amounts paid to an employee after the 2½ month window has closed can be deferred.

WHAT DOES THIS MEAN FOR EMPLOYERS?

- First, severance payments such as early retirement incentives paid by school districts pursuant to their own policies or under Idaho Code §33-1004G can no longer be deferred unless they are paid prior to termination of employment. Including the incentive payment in the employee's last paycheck or paying it within 30 days of severance is no longer permissible because early retirement incentives are not the type of compensation that can be deferred during the new 2½ month window.

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- Second, when an employee is entitled to payment of accrued leave at the time employment ends, only the amounts paid during the 2½ months immediately following severance can be deferred. Amounts paid at later dates cannot be deferred.

Employers with questions should consult with the employee and contact PERSI's Employer Service Center (208-287-9525 or 866-887-9525) or a qualified tax advisor for clarification on how these new regulations apply to specific situations. The IRS can impose severe monetary penalties on employees who defer too much post-severance pay in violation of the new regulations, and there can also be consequences for the plan accepting the deferrals.

Because these regulations are "proposed," it is possible they could be modified when they are finalized. Nevertheless, according to the IRS these proposed regulations are now in effect as written.

These new regulations affect the ability to defer compensation to all 401(k), 457, and 403(b) plans. They do not, however, affect an employer's ability to make employer contributions to a 403(b) plan on behalf of certain former employees pursuant to the governing provisions of that section. Interested employers should consult with their 403(b) plan advisor regarding their ability, if any, to utilize those provisions for the benefit of their employees.

Notes

GOOD-BYE & GOOD LUCK

PERSI said good-bye to Deputy Director [John Doner](#), who retired after nearly 35 years of public service. John spent almost 5 years with PERSI, and is responsible for initiating a major multi-year business process re-engineering project to improve and enhance the agency's customer service delivery system. By restructuring the organization, PERSI is better positioned to meet the growing needs of members and employers well into the future. Thanks for everything John, you'll be missed.

CONGRATULATIONS

The *Idaho Business Review* (IBR) named PERSI board member [Pam Ahrens](#) among its list of 35 "Women of Distinction" for 2006. Honorees were determined based on their achievement and leadership within their chosen professions, service as a mentor to other women, contributions of time and service to volunteer activities, and leadership within those volunteer organizations. The "Women of the Year" will be honored at a dinner being held at 7:00 p.m. on February 21, 2006, at the Boise Centre on the Grove. In conjunction with the event, the IBR will publish a magazine supplement profiling each of the 35 women. PERSI congratulates Pam for her many contributions to our community, and thanks her for her long-time service to PERSI.

PERSI's Chief Investment Officer [Bob Maynard](#) has once again been named to *Institutional Investor* magazine's "Excellence in Investment Management" list. The award recognizes the outstanding achievements of executives who manage U.S. pension plans, endowments, and foundations on behalf of the nation's millions of retirees and beneficiaries.



Retirement Board Chairman Jody Olson (r) and Executive Director Alan Winkle (l) present a plaque to retiring Deputy Director John Doner as a token of appreciation for his years of public service.